HIL

MINRE

JUL 22 2005

PAT. & T.M. OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES



United States Patent and Trademark Office

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Tradomark Office P.O. Box 1450

Alexandria, Virginio 22313.1450 von.usp10.gov

CROWELL & MORING LLP Intellectual Property Group P.O. Box 14300

Wzelnington, DC 20044-4300

2005-1900

CIERD BRANDHORST of al. 09/368,505

Appellant Application No: Hearing Room:

Appeal No:

Hearing Docket: Hearing Date:

Tuesday, September 13, 2005 D1:00 PM

Hearing Time: Location:

Modison Building - East Wing . 600 Dulany Street, 9th Floor Alexandrie, Virginia 22313-1450

NOTICE OF HEARING CONFIRMATION REQUIRED WITHIN TWENTY-ONE DAYS

Your attention is directed to 37 CFR § 41.47. The above identified appeal will be heard by the Board of Patent Appeals and Interferences on the date indicated. Hearings will commence at the time set and as soon as the argument in one appeal is concluded, the succeeding appeal will be taken up. The time allowed for organizati is twenty minutes unless additional time is requested and permitted before the argument is commenced. If there are any inquires, please contact the Clerk of the Board at 571-272-9797.

CONFIRMATION OR WAIVER OF THE HEARING IS REQUIRED. This form must be completed below and faceimile transmitted to both: (1) the USPTO Central fax number (official copy), and (2) the Board of Patent Appeals and Interferences fax munber (courtesy copy) within TWENTY-ONE (21) DAYS from the mailing date of this notice indicating confirmation or waiver of the hearing. A copy of this notice may be alternately filed by mail if facsimile is not available.

BPAI HBARINGS FAX No: (571) 273-0299

Signature of Attenney/Agoot/Appellant

USPTO Comral Fax No; (571) 273-8300

BPAI Mailing Address:

BOARD OF PATENT APPEALS AND INTERFERENCES United States Patent and Trademark Office P.O. BOX 1450

ALEXANDRIA, VIRGINIA 22313-1450

In all communications relating to this appeal, please identify the appeal by its number.

HEADING ALTENDANCE CONFIRMED () HEARING ATTENDANCE WAIVED

Names of other visitors expected to accompany counsel:
For information on visitor access to hearing rooms and accompany and accompany it the USFTO Alexandria Chapus, exching the visitors control of the control of the

P.O. Box 14300, Washington, DC 20044-4300 = p202 624-2500 = f202 628-8844

crowell

FACSIMILE COVER PAGE

			Date Aug	ust 3, 2005
To:	U.S. Patent and Traden	nark Office		
Facsi	mile Telephone Numbe	er: <u>571-273-0299</u>		
Total	Number of Pages (Incl	udes Cover Sheet	t): <u>7</u>	
From	: Herbert I. Cantor, Reg.	No. 24,392	_ Phone:	202-508-8902
	ef: 010746.48111RE Ref: US Appln No. 09/8	68,505	User ID:	1818
Messa	ige: COURTESY CO	PY		
Hard	Copy to Follow:	Yes 🔀 No		
		N. P. C.		

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM, OR ENTITY TO WHICH, IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW.

If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is prohibited. If you have received this communication in error, please notify us immediately by telephone (collect), and return the original message to us at the address listed above via the U.S. Postal Service.

Thank You	

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No.

: 09/368,505

Confirmation No.: 5618

Applicant

: Gord BRANDHORST et al

Piled

: August 5, 1999

APPEAL, NO. 2005-1900

TC/AU

: 3754

Examiner

: Philippe DERAKSHANI

Docket No.

: 010746.48111RE

Customer No.

; 23911

Title

: DEVICE FOR EMPTYING A FILM TUBE

ADDENDUM TO CONFIRMATION OF HEARING

The second second

Commissioner for Patents P.O. box 1460 Alexandria, VA 22313-1450

Sir:

This is supplemental to the Confirmation of Hearing filed herewith.

Request to Participate Telephonically

Counsel for Appellants elects to participate in the oral hearing telephonically. The Board is respectfully requested to provide appropriate instructions. Please send the instructions to the undersigned by fax at 202-628-8844.

Clarification

On October 8, 2003, Appellants filed a "Communication" asking the Board to remand

NO.333

this case to the Examiner if the file had already been transmitted to the Board or, alternatively, asking the Examiner to reconsider the final rejection if the case had not yet been transmitted to the Board, in light of the then recently published decision and opinion in the case of Exparte Eggen, 67 USPQ2d 1716 (BPAI 2003).

Since the Examiner did not comment on the Communication after the file had been lost in the PTO for some 2 1/2 years, it is assumed that the paper did not make its way to the file. In order that the file be complete, a copy of the Communication (without enclosure) is submitted herewith along with a copy of the post card receipt.

Under the circumstances, and in order to expedite the appeal, the request for remand is hereby withdrawn.

Respectfully submitted.

August 3, 2005

Herbert I. Cantor Registration No. 24,392

CROWELL & MORING LLP P.O. Box 14300 Washington, D.C. 20044-4300

Tel: 202-624-2605 Fax: 202-628-8844

HIC:moi